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DEPARTMENT OF COMMERCE

International Trade Administration

(A-523-808)

Certain Steel Nails from the Sultanate of Oman: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review; 2014-2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on certain steel nails (nails) from the Sultanate of Oman (Oman). The period of review (POR) is December 29, 2014, through June 30, 2016. This administrative review covers two exporters of the subject merchandise, both of which were selected as mandatory respondents, Oman Fasteners LLC (Oman Fasteners) and Overseas International Steel Industry LLC (OISI). The Department preliminarily determines Oman Fasteners and OISI made sales of subject merchandise at less than normal value during the POR. Additionally, we are rescinding this administrative review, in part, with respect to 12 companies, based on the timely withdrawal of Mid Continent Steel & Wire, Inc.'s (the petitioner) request for administrative review. Interested parties are invited to comment on these preliminary results.

DATES: Applicable [Insert the date of the publication of the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Lilit Astvatsatrian or Thomas Martin, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6412 or (202) 482-3936, respectively.

SUPPLEMENTARY INFORMATION

On July 13, 2015, the Department published in the *Federal Register* an AD order on nails from Oman.¹ On July 5, 2016, the Department notified interested parties of the opportunity to request an administrative review of orders, findings, or suspended investigations with anniversaries in July 2016, including the AD order on nails from Oman. The Department received timely requests from Oman Fasteners, OISI, and the petitioner to conduct an administrative review of certain exporters covering the POR. On September 12, 2016, the Department published a notice initiating an AD administrative review of nails from Oman covering 15 companies for the POR.²

In the *Initiation Notice*, the Department indicated that, in the event that we would limit the respondents selected for individual examination in accordance with section 777A(c)(2) of the Tariff Act of 1930, as amended (the Act), we would select mandatory respondents for individual examination based upon U.S. Customs and Border Protection (CBP) entry data.³ On November 9, 2016, after considering the large number of potential producers/exporters involved in this administrative review, and the resources available to the Department, we determined that it was not practicable to examine all exporters/producers of subject merchandise for which a review was requested.⁴ As a result, pursuant to section 777A(c)(2)(B) of the Act, we determined that we could reasonably individually examine only the two largest producers/exporters of nails from Oman by U.S. entry volume during the POR (*i.e.*, Oman Fasteners and OISI).⁵ Accordingly, we issued the AD questionnaire to these companies, Oman Fasteners and OISI, the

¹ See *Certain Steel Nails from the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, and the Socialist Republic of Vietnam: Antidumping Duty Orders*, 80 FR 39994 (July 13, 2015) (*Order*).

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 62720 (September 12, 2016) (*Initiation Notice*).

³ See *Initiation Notice*, 81 FR at 62720.

⁴ See Memorandum entitled, “Respondent Selection in the first Antidumping Duty Administrative Review of Certain Steel Nails from Oman,” dated November 9, 2016 (Respondent Selection Memorandum).

⁵ See Respondent Selection Memorandum.

two mandatory respondents.⁶ On December 12, 2016, the petitioner timely withdrew its request for administrative review, pursuant to 19 CFR 351.213(d)(1), of all the producers and exporters except for Oman Fasteners, OISI, and Overseas Distribution Services Inc. (ODS).⁷

On March 23, 2017, the Department extended the preliminary results in this review to no later than July 31, 2017.⁸

Partial Rescission of Administrative Review

The Department received timely requests to conduct an administrative review of certain exporters covering the POR. Because the petitioner timely withdrew its requests for review of all of the companies listed in the *Initiation Notice*, with the exception of Oman Fasteners, OISI, and ODS, we are rescinding the administrative review with respect to those 12 companies, pursuant to 19 CFR 351.213(d)(1). The Department has rescinded the administrative review with respect to the remaining 12 companies on which we initiated this review pursuant to 19 CFR 351.213(d)(1).⁹ Accordingly, the remaining companies subject to the instant review are: Oman Fasteners, OISI, and ODS.

Scope of the Order

The merchandise covered by this order is nails having a nominal shaft length not exceeding 12 inches.¹⁰ Merchandise covered by the order is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.55.02,

⁶ See Department Letter, “Administrative Review of Certain Steel Nails from Oman: Antidumping Duty Questionnaire,” dated November 9, 2016.

⁷ See Letter from the petitioner, “Certain Steel Nails from Oman: Withdrawal of Request for Administrative Review,” dated December 12, 2016.

⁸ See Memorandum, “Certain Steel Nails from the Sultanate of Oman: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated March 23, 2017.

⁹ Astrotech Steels Private Ltd, Consolidated Shipping services LLC, Damco India Private Ltd., Flyjac Logistics Private Ltd., International Maritime & Aviation LLC, Liladhar Pasoo India Logistics Private Ltd., Ivk Manuport Logistics LLC, Raajratna Metal Industries Ltd., Shanxi Tianli Industries Co. Ltd., Swift Freight India Private Ltd., United Building Material Factory, Uniworld Logistics Pvt Ltd.

¹⁰ The shaft length of certain steel nails with flat heads or parallel shoulders under the head shall be measured from under the head or shoulder to the tip of the point. The shaft length of all other certain steel nails shall be measured overall.

7317.00.55.03, 7317.00.55.05, 7317.00.55.07, 7317.00.55.08, 7317.00.55.11, 7317.00.55.18, 7317.00.55.19, 7317.00.55.20, 7317.00.55.30, 7317.00.55.40, 7317.00.55.50, 7317.00.55.60, 7317.00.55.70, 7317.00.55.80, 7317.00.55.90, 7317.00.65.30, 7317.00.65.60 and 7317.00.75.00.

Nails subject to this order also may be classified under HTSUS subheadings 7907.00.60.00, 8206.00.00.00 or other HTSUS subheadings. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive. For a complete description of the scope of the order, *see* the Preliminary Decision Memorandum.¹¹

Methodology

The Department is conducting this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Export price and constructed export price are calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.¹² A list of topics included in the Preliminary Decision Memorandum is included as an Appendix to this notice.

Adverse Facts Available

Section 776(a) of the Act provides that the Department shall, subject to section 782(d) of the Act, use “facts otherwise available” if: (1) necessary information is not on the record; or (2)

¹¹ *See* Memorandum, “Decision Memorandum for Preliminary Results of the 2014-2016 Antidumping Duty Administrative Review of Certain Steel Nails from the Sultanate of Oman,” dated concurrently with, and hereby adopted by this notice (Preliminary Decision Memorandum). The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content..

¹² *See* Preliminary Decision Memorandum.

an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information (*i.e.*, adverse facts available, or AFA). In doing so, and under the Trade Preferences Extension Act of 2015 (TPEA), the Department is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information. Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the less than fair value investigation, a previous administrative review, or other information placed on the record.

Section 776(c) of the Act provides that, in general, when the Department relies on secondary information rather than on information obtained in the course of an investigation, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise. However, the Department is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.

Under section 776(d) of the Act, the Department may use any dumping margin from any segment of a proceeding under an AD order when applying an adverse inference, including the highest of such margins. The TPEA also makes clear that when selecting an AFA margin, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.

In accordance with section 776 of the Act, the Department preliminarily determines that the application of facts available is warranted for OISI because OISI has not provided the necessary information on the record, pursuant to section 776(a)(1) of the Act. Specifically, OISI reported that ODS was its affiliate in the United Arab Emirates, but failed to provide adequate information regarding its relationship with ODS. OISI also failed to provide adequate information regarding its U.S. sales data, such that the Department could not use the data in its calculations. Furthermore, OISI has withheld requested information, failed to provide such information in the form and manner required, impeded this review, and reported information that could not be verified, the use of facts available for the preliminary results is warranted, pursuant to sections 776(a)(2)(A), (B), (C), and (D) of the Act. For a full discussion, *see* the Preliminary Decision Memorandum.

Furthermore, by withholding requested information, failing to provide such information in the manner and form required, impeding this review, and reporting information that could not be verified, OISI failed to cooperate with the Department by not acting to the best of its ability to comply with a request for information by the Department, pursuant to section 776(b)(1) of the Act. Accordingly, we preliminarily determine to apply adverse facts available (AFA) to OISI, in accordance with sections 776(a) and (b) of the Act and 19 CFR 351.308. Record information

indicates that OISI and ODS are affiliated and may meet our criteria for collapsing, due to OISI's reported shared ownership and intertwined operations with ODS. Because OISI did not answer our supplemental questionnaire, we do not have all of the information we need on the record in order to conduct a collapsing analysis. Accordingly, we have applied an adverse inference to the factual information on the record, and have, as AFA, collapsed OISI and ODS into a single entity. Furthermore, as we do not have adequate information on the record to calculate a margin for OISI, we have calculated its margin based on total AFA. Specifically, we are applying a rate of 154.33 percent, which was calculated by Petitioner in the petition in this investigation.¹³ We have corroborated this rate with information obtained in the course of this administrative review, consistent with section 776(c)(1) of the Act. For further discussion, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following weighted-average dumping margins for the period December 29, 2014 through June 30, 2016:

| Exporter/Producer | Weighted-Average Dumping Margins (percent) |
|--|--|
| Oman Fasteners LLC | 99.88 |
| Overseas International Steel Industry LLC/ Overseas Distribution Services Inc. ¹⁴ | 154.33 |

Assessment Rates

¹³ Letter from the Department, "Certain Steel Nails India, the Republic of Korea, the Sultanate of Oman, Malaysia, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam," dated May 29, 2014 (Petition). *See also* section 776(b)(2)(A) (stating that the petition is a potential source of information for the application of adverse facts available).

¹⁴ ODS was initially a non-selected respondent subject to this administrative review; however, because we have, as AFA, collapsed ODS with mandatory respondent OISI, we are assigning both the same AFA margin.

Upon completion of the administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review.

For any individually examined respondents whose weighted-average dumping margin is above *de minimis* (*i.e.*, 0.50 percent), we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).¹⁵ For entries of subject merchandise during the POR produced by each respondent for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate un-reviewed entries at the all-others rate if there is no rate for the intermediate company involved in the transaction.¹⁶ We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is above *de minimis*. Where either the respondent's weighted-average dumping margin is zero or *de minimis*, or an importer-specific assessment rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For the twelve companies for which this review is rescinded, antidumping duties will be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawn from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions directly to

¹⁵ In these preliminary results, the Department applied the assessment rate calculation methodology adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012).

¹⁶ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

CBP 15 days after publication of this notice. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirement

The following deposit requirements will be effective upon publication of the notice of the final results of administrative review for all shipments of nails from Oman entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the companies under review will be the rate established in the final results of this review (except, if the rate is zero or *de minimis*, no cash deposit will be required); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of the proceeding for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 9.10 percent *ad valorem*, the all-others rate established in the less-than-fair value investigation.¹⁷

Disclosure and Public Comment

The Department intends to disclose the calculations used in our analysis to interested parties in this review within five days of the date of publication of this notice in accordance with

¹⁷ See *Certain Steel Nails from the Republic of Oman: Final Determination of Sales at Less Than Fair Value*, 80 FR 28955 (May 20, 2015).

19 CFR 351.224(b). Interested parties are invited to comment on the preliminary results of this review. Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the time limit for filing case briefs.¹⁸ Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each brief: (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities.¹⁹ Executive summaries should be limited to five pages total, including footnotes.²⁰ Case and rebuttal briefs should be filed using ACCESS.²¹

Pursuant to 19 CFR 351.310(c), any interested party may request a hearing within 30 days of the publication of this notice in the *Federal Register*. If a hearing is requested, the Department will notify interested parties of the hearing schedule. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically *via* ACCESS within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.

We intend to issue the final results of this administrative review, including the results of our analysis of issues raised by the parties in the written comments, within 120 days of publication of these preliminary results in the *Federal Register*, unless otherwise extended.²²

Notification to Importers

¹⁸ See 19 CFR 351.309(d)(1).

¹⁹ See 19 CFR 351.309(c)(2) and (d)(2).

²⁰ *Id.*

²¹ See 19 CFR 351.303.

²² See section 751(a)(3)(A) of the Act.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results and partial rescission of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h)(1).

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

Dated: July 31, 2017

APPENDIX

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
 - II. Background
 - III. Scope of the Order
 - IV. Affiliation
 - V. Use of Facts Otherwise Available and Adverse Interferences
 - VI. Discussion of the Methodology
 - VII. Recommendation
- [FR Doc. 2017-16497 Filed: 8/4/2017 8:45 am; Publication Date: 8/7/2017]